IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELALTE SIDE

CONTEMPT PEITION NO.294 OF 2005

BNP Paribas (formerly known as
Banque Nationale De Paris. ...Petitioner.

Versus

Sampada Sahakari Bank Ltd. & ors. ...Respondents.

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Mr. Cbhirag Balsara and Mr.Raju Gawde i/b. K.Ashar & Co. for the Petitioner.

Mr. C. J. Sawant, Sr. Advocate with Mr. V. C. Ghosalkar for Respondent No.1.

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CORAM : DR. D.Y. CHANDRACHUD, J.

December 7, 2005.

P.C.:

The allegation in the Contempt Petition is that the First Respondent Bank suppressed from the Co-operative Court and Co-operative Appellate Court that it had encashed or appropriated the FDR that forms the subject matter of the dispute. The Writ Petition filed by the Petitioner under Article 227 of the Constitution (W.P. 9510 of 2004) in order to challenge the verdict of the Co-operative Appellate Court holding that the dispute was not maintainable under Section 91 of the Maharashtra Co-operative Societies' Act, 1960, is pending. Interim relief was refused on 13th January 2005 in Civil Application No.2986 of 2004 on the ground that the FDR has already been encashed in 1997 and that since

the First Respondent is a Co-operative Bank, the Petitioner will be entitled to seek recovery if it succeeds in this Court. Counsel appearing on behalf of the First Respondent has drawn the attention of the Court to the reply filed by the First Respondent to the Civil Application which has been taken out before this Court in the pending Writ Petition. Annexed to that reply is a copy of the Memo of Appeal before the Co-operative Appellate Court and in para 16 thereof, there is a clear disclosure of the fact that FDR is adjusted. In that view of the matter, there is no suppression on the part of the First Respondent. The invocation of the contempt jurisdiction is misconceived. The Contempt Petition is disposed of.

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